

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

ROBRICA DOWNS, Plaintiff, v. MEDTRUST MEDICAL TRANSPORT, LLC, Defendants.	CASE NO.: <u>2:19-cv-3330-BHH-BM</u> NOTICE AND PETITION FOR REMOVAL BY DEFENDANT MEDTRUST MEDICAL TRANSPORT, LLC
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TO: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, CHARLESTON DIVISION; SMALL CLAIMS COURT FOR CHARLESTON COUNTY, SOUTH CAROLINA; AND ALL PARTIES AND ATTORNEYS OF RECORD:

Pursuant to U.S.C. §§ 1331, 1441 and 1446 and Local Civil Rule 83.IV.01-.02, Defendant MedTrust Medical Transport, LLC (“Defendant”) hereby files Notice of Removal of this action from the Small Claims Court, State of South Carolina, County of Charleston, C/A No. 2019CV1011502277, to the United States District Court, District of South Carolina, Charleston Division. In support thereof, Defendant would respectfully show unto this Honorable Court as follows:

1. Defendant is named in a civil action filed by the Plaintiff Robrica Downs in the Small Claims Court, County of Charleston, Civil Action Number 2019CV1011502277. A copy of the Summons and Complaint, which was filed on October 28, 2019, is attached hereto as **Exhibit A**. No further proceedings have been filed and the Summons and Complaint constitute all process, pleadings or orders properly served in this action.
2. Upon information and belief, Plaintiff is a citizen and resident of the State of South Carolina, as per the information contained in her Complaint.

3. Defendant is a South Carolina limited liability company with its principal place of business in Hanahan, South Carolina.

4. Defendant was served with the Summons and Complaint on October 30, 2019.

5. Removal of Plaintiff's state court action is proper under 28 U.S.C. § 1441. If the action had originally been brought in this Court, the Court would have had original jurisdiction over the Plaintiff's claims pursuant to 28 U.S.C. § 1331.

6. Original jurisdiction on the basis of federal question jurisdiction exists because Plaintiff is seeking payment of allegedly unpaid overtime wages under the Fair Labor and Standards Act pursuant to 29 U.S.C. § 201 *et. seq.* South Carolina has no state law which controls payment of unpaid overtime wages, and therefore federal law controls.

7. Pursuant to 28 U.S.C. § 1446(b), Defendant has timely filed this Notice of Removal. Plaintiff's Complaint was served on Defendant as referenced in ¶ 4. This Notice of Removal is filed within thirty (30) days of receipt of the Complaint by these Defendant and is, therefore, timely filed under 28 U.S.C. § 1446(b).

8. Defendant files herewith copies of all process, pleadings and orders served upon them in this action as part of this notice.

9. Defendant has filed a copy of this Notice of Removal in this action with the Clerk of Court for Small Claims Court in Charleston County, South Carolina and has served Plaintiff with the Notice of Removal.

WHEREFORE, Defendant respectfully requests this Honorable Court accept this Notice of Removal and that this Honorable Court take jurisdiction of the above-entitled action and all further proceedings in said action in the Small Claims Court, County of Charleston, State of South Carolina be stayed.

Respectfully submitted this 26th day of November, 2019.

SHUMAKER, LOOP & KENDRICK, LLP

s/ Laura Dukes Beck

Laura Dukes Beck (Fed I.D. #7440)

Laura Johnson Evans (Fed I.D. #6254)

176 Croghan Spur, Suite 400

Charleston, South Carolina 29407

Ph. 843.996.1900

LBeck@Shumaker.com

Attorneys for MedTrust Medical Transport, LLC